

### Rule 607. Who May Impeach a Witness.

Any party, including the party that called the witness, may attack the witness's credibility.

#### Comment to 2012 Amendment

The language of Rule 607 has been amended to conform to the federal restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

#### Cases

607.010 The party calling a witness may impeach that witness.

*State v. Acree*, 121 Ariz. 94, 96, 588 P.2d 836, 838 (1978) (when police interviewed victim 2 days after assault, she said defendant pointed gun at her and had tried to shoot her; at trial, victim testified that defendant never pointed gun at her, that she did not believe defendant would have shot or harmed her, and that she could have blown entire matter out of proportion; state was then allowed to impeach victim's trial testimony with statement she made during police interview).

607.020 Rule 607 eliminated the requirement that a party could impeach its own witness only if it could show that it was surprised, and that the testimony was material and damaging.

*State v. Acree*, 121 Ariz. 94, 96, 588 P.2d 836, 838 (1978) (when police interviewed victim 2 days after assault, she said defendant pointed gun at her and had tried to shoot her; at trial, victim testified that defendant never pointed gun at her, that she did not believe defendant would have shot or harmed her, and that she could have blown entire matter out of proportion; state was then allowed to impeach victim's trial testimony with statement she made during police interview; defendant contended that impeachment was improper because state was not surprised, damaged, or prejudiced by the testimony; court held that Arizona Rules of Evidence eliminated surprise as prerequisite to impeaching one's own witness).

607.025 A prior inconsistent statement may be used for substantive as well as for impeachment purposes.

*State v. Huerstel*, 206 Ariz. 93, 75 P.3d 698, ¶ 42 n.9 (2003) (defendant introduced statements from two inmates who claimed codefendant told them he shot all three victims; trial court then allowed state to introduce codefendant's statement in which he claimed defendant shot all three victims; court held admission of codefendant's statement to police violated Confrontation Clause, thus trial court erred in admitting it; court noted that use of prior inconsistent statement as substantive evidence is predicated on fact that witness who made statement testifies at trial and thus is subject to cross-examination, but when prior inconsistent statement is admitted under Rule 806, declarant has not testified at trial and thus is not subject to cross-examination, so only way statement could be used is for impeachment and not as substantive evidence).

*State v. Acree*, 121 Ariz. 94, 97, 588 P.2d 836, 839 (1978) (when police interviewed victim 2 days after assault, she said defendant pointed gun at her and had tried to shoot her; at trial, victim testified defendant never pointed gun at her, that she did not believe defendant would have shot or harmed her, and she could have blown entire matter out of proportion; state was then allowed to impeach victim's trial testimony with statement she made during police interview;

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defendant contended trial court erred in allowing use of prior inconsistent statements for substantive purposes; court held evidence was admissible for substantive purposes).

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\* = 2012 Case

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